NOTICE.

The following Bill, leave to introduce which has been granted by the Sri Chitra State Council at its meeting held on the 13th September 1944, is published for general information.

Trivandrum,
14th September, 1944.

S. VAIDYANATHA AIYAR,
Secretary to the Sri Chitra State Council.

THE TRAVANCORE KAMMALA BILL.

Whereas it is expedient to define and amend the law relating to marriage, succession and adoption among the Malayala Kammalas (Viswakarmas) : It is hereby enacted as follows :—

CHAPTER I.

Preliminary.

1. (1) This Act may be called The Travancore Kammala (Viswakarma) Act, 111—

(2) It shall come into force at once.

(3) It shall apply to all Malayala Kammalas domiciled in Travancore and to such other Kammalas whether so domiciled or not, as have, or shall have marital relations with Malayala Kammalas domiciled in Travancore and also to all Malayala Kammalas wherever domiciled in respect of their properties in Travancore.

(4) This Act shall not apply to Tamil Kammalas.

2. In this Act unless there is something repugnant in the subject or context—

(1) 'Kammala' means and includes all Malayala Kammalas (Viswakarmas) called Asari, Kollan, Thattan, Moosari, Kallasari and others known or recognised as members of the Malayala Kammala (Viswakarma) community.

(2) 'Minor' means a person who has not completed eighteen years of age.

CHAPTER II.

Marriage and its Dissolution.

3. The conjugal union of a Kammala male subject to the restrictions of consanguinity and affinity with a Kammala female openly solemnised by tying the *tali* around the neck of the female by the male shall be deemed to be a valid marriage for all legal purposes :

Provided that no conjugal union solemnised after the date on which this Act comes into force shall in the case of a male who has

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not completed eighteen years of age or of a female who has not completed sixteen years of age, be deemed to be a legally valid marriage unless it takes place with the consent of his or her legal guardian or, unless such conjugal union is recognised and continued after the attainment of eighteen or sixteen years of age, as the case may be, by the party or parties concerned.

Illustrations.

(*a*) C, a male, commits adultery with B who has married A. or entices away, B who, he knows, has married A. C is liable to punishment under Section 500 or 501, Travancore Penal Code.

(*b*) C, a male, marries B who has married A, during the continuance of A's marriage. Such marriage being void under Section 4, B and C are liable to punishment for biganiy under Section 497, Travancore Penal Code, and abetment thereof respectively.

(*c*) A, a male, having sufficient means, neglects or refuses to maintain B whom he has married. B is entitled to apply for maintenance under Chapter XXXV Criminal Procedure Code.

(*d*) B, a female, who has married A, refuses to cohabit with the latter without just cause. A may bring a civil suit for restitution of conjugal rights.

4. The subsequent marriage of a male or of a female during the continuance of a prior marriage and performed after the commencement of this Act shall be void.

5. Marriage may be dissolved only in one of the following ways:—

(i) by the death of either party, or

(ii) by mutual consent evidenced by a registered instrument or

(iii) by a formal order of dissolution as hereinafter provided.

6. A husband or wife may present a petition for dissolution of the marriage under Section (5) (iii) in the Court of the District Munsiff within the local limits of whose jurisdiction the respondent resides, carries on business or personally works for gain or if the respondent resides, carries on business or personally works for gain in any place outside Travancore, in the Court of the District Munsiff within whose jurisdiction the petitioner resides and the petitioner shall in all cases offer in the petition reasonable compensation to the respondent except where such respondent has changed his or her religion:

Provided that the wife shall herself be competent to apply for divorce if she has completed sixteen years of age.

7. What is reasonable compensation shall in case of dispute be determined by the Court after an enquiry into the position, means, and circumstances of the parties but without going into the grounds of the proposed dissolution; and it shall in no case exceed Rs. 500

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where the petitioner is the husband and Rs. 200 where the petitioner is the wife.

8. A copy of such petition as aforesaid shall be served on the respondent at the expense of the petitioner and in the manner provided for the service of summonses on a defendant in the Code of Civil Procedure.

9. Six months after the service of the copy as aforesaid, if the petition is not withdrawn in the meantime, the Court shall after determining the amount of compensation, declare in writing the marriage dissolved. The dissolution, shall take effect from the date of the order declaring it.

So far as it declares payment of compensation such order shall be executable and appealable as a decree under the Code of Civil Procedure on payment of court fees on the amount adjudged or claimed as the case may be.

CHAPTER III.

Maintenance and Guardianship.

10. The wife and minor children except married daughters under the guardianship of their husbands, shall be entitled to be maintained by the husband or father, as the case may be :

Provided that the wife shall not be entitled to maintenance if she refuses to live with the husband without just cause or has changed her religion.

11. Save as regards married daughters under the guardianship of the husbands, the following persons in the order named shall be the legal guardians of the minor children in respect of their person and property namely the father, the mother, the brother, the father's brothers and the major male children of the father's brother.

12. Where the wife has minor children by a former husband deceased or divorced, she shall be the legal guardian in respect of their person as also the separate properties belonging to them.

CHAPTER IV.

Intestate Succession.

13. The provisions of this Act shall not apply to any intestacy occurring before the date on which this Act come into force, nor shall these provisions divest rights which have already become vested.

14. For the purpose of succession there is no distinction between ancestral property and separate or self-acquired property.

15. Unless a contrary intention is expressed in the instrument of gift, bequest or partition, a Kammala woman shall acquire absolute right in respect of property obtained by such gift bequest or partition.

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16. No person shall by marriage acquire any interest in the property of the person whom he or she marries nor become incapable of doing any in respect of his or her own property which he or she could have done if unmarried.

17. No lineal decendant of any Kammala shall acquire by birth any interest in the property inherited or acquired by such Kammala.

18. The undivided share of a member of a Kammala Joint family in Joint family property shall be deemed to have been determined as on the date of the commencement of this Act and shall be treated as such member's separate property.

19. A person is considered to die intestate in respect of all property of which such person has not made a testamentary disposition which is capable of taking effect.

20. The self-acquired and separate property of a deceased Kammala shall pass by right of succession to his heirs hereinafter named according to the provisions contained in this Act.

21. On the death of a Kammala male leaving him surviving a widow or widows and also sons or the lineal male descendants of deceased sons, or both, they shall subject to the provisions of Section 29, take the whole of the self-acquired and separate property left undisposed by him at his death. In the absence of the widow, the sons and the lineal male descendants of deceased sons shall take the whole, and in the absence of the widow and sons, the lineal male descendants of the deceased sons shall take the whole.

22. The distribution of the estate under Section 21 shall be according to the following rules :—

(1) The widow or widows, if there are more than one, shall each be entitled to a share equal to that of a son.

(2) Sons shall take the property in equal shares provided that if a son shall have predeceased the intestate the lineal male descendants of such son shall take the share which such son would have taken had he survived the intestate.

(3) Grandsons shall take in equal shares what their father would have taken had he survived the intestate; In like manner the property shall go to the surviving lineal male descendants of the intestate where they are all in the degree of great grandsons to him or in a more remote degree.

23. On the death of a Kammala male leaving him surviving no sons or lineal male descendants of deceased sons but only his widow or widows and his daughters or the children of deceased daughters or both, on behalf of his property shall devolve on his widow or widows and the other half of his daughter or daughters and the children of deceased daughters if any. In the absence of the widow, the daughter and the children of deceased daughters shall take the whole. In the absence of the daughter and children, the widow shall take the whole.

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Provided that if a daughter shall have predeceased the intestate, the children of such daughter shall take such share which such daughter would have taken had she survived the intestate.

Provided further that any Stridhanam paid to a daughter shall be taken into account in estimating her share, but not so as to compel her to refund anything already received as Stridhanam.

24. On the death of a Kammala male leaving him surviving none of the heirs mentioned in Section 21 and 23 but only his father and his mother, one half of his property shall devolve on his father and the other half on his mother. In the absence of his father the mother shall take the whole and in the absence of the mother, the father shall take the whole.

25. On the death of a Kammala male leaving him surviving none of the heirs mentioned in Sections 21, 23, and 24 but only his brother or brothers and the lineal male descendants of deceased brothers they shall take the whole property left undisposed of by him at his death.

26. On the death of a Kammala male leaving him surviving none of the heirs mentioned in Sections 21, 23, 24 and 25, but only his sister or sisters and the lineal male descendant of deceased sisters, they shall take the whole property left undisposed of by him at his death.

27. On the death of a Kammala male leaving him surviving none of the heirs mentioned in the preceding sections, the whole property left undisposed of by him at his death shall be divided equally among those of his relatives who are in the nearest degree of kindred to him in the male line.

28. Over any immovable property to which a widow or mother becomes entitled under Section 21 or 24 as the case may be, she shall have only a life interest terminable at death or on change of religion.

On the determination of the limited estate of the widow or the mother, the property over which she had such limited interest shall be distributed among the heirs of the original intestate as if the holder of the life estate had not survived the intestate.

29. On the death of a Kammala male leaving him surviving the heirs mentioned in Section 21 and unmarried daughters, each of such unmarried daughters shall be entitled to Stridhanam which shall be fixed at one-half the value of the share of a son or five hundred rupees whichever is less, and such Stridhanam shall be her absolute property and shall be a charge on the property of the intestate.

30. On the death of a Kammala female leaving her surviving her children or the lineal descendants of deceased children or both they shall take the whole of the self-acquired and separate property left undisposed of by her at her death.

31. On the death of a Kammala female leaving her surviving none of her lineal descendants but only her husband, her father and her mother, the husband shall take the whole property left undisposed of by her at her death. In the absence of her husband the father shall take the whole and in the absence of the husband and the father, the mother shall take the whole.

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32. On the death of a Kammala female leaving her surviving none of the heirs mentioned in Sections 30 and 31 but only her brother or brothers and the lineal descendants of deceased brothers, they shall take the whole property left undisposed of by her at her death.

33. On the death of a Kammala female leaving her surviving none of the heirs mentioned in Sections, 30, 31 and 32 but only her sister or sisters and the lineal descendants of deceased sisters, they shall take the whole property left undisposed of by her at her death.

34. On the death of a Kammala female leaving her surviving none of the heirs mentioned in the preceding sections the whole property left undisposed of by her at her death shall be divided equally among those of her relatives who are in the nearest degree of kindred to her.

35. The provisions contained in section 22, clauses (1), (2) and (3) shall as far as may be applied to the distribution of the estate among the heirs under Sections, 25, 26, 30, 32, and 33.

36. Where distributive share in the property of a person who has died intestate is claimed by a child or any descendant of a child of such person, no money or other property which the intestate may during his life, have paid, given or settled to or for the advancement of the child by whom or whose descendant the claim is made, shall be taken into account in estimating such distributive share.

CHAPTER V.

Testamentary Succession.

37. Any Kammala may dispose of by Will the whole of his or her self-acquired or separate property.

CHAPTER VI.

Adoption.

38. A husband may, with the consent of his wife, adopt an unmarried male child, if they have no issue, and the adopted son shall have all the rights of a natural born son.

39. A widow or widower may also take in adoption an unmarried male child but such adopted son shall succeed only to the separate or self-acquired property of the adoptive mother or father as the case may be.

CHAPTER VII.

Supplemental Provisions.

40. Nothing in this Act shall.—

(a) affect rights which have accrued according to law or customs before the date on which this Act comes into force; or

(b) affect the existing rules of law, customs or usage except to the extent hereinbefore expressly provided for.

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Statement of Objects and Reasons.

The necessity for an Act to regulate the succession, marriage and adoption of the Malayali section of the Kammala community which numbers 245,142 out of a total Kammala population of 256,673 was first brought to the notice of Government by means of a representation at a meeting of the Sri Mulam Popular Assembly.

A Bill for the purpose was introduced in the first Assembly constituted under Act II of 1108. The Bill was continued in the Second Assembly when another Bill entitled the 'Viswakarma Bill' was introduced by Mr. N. Velu Achary. Both the Bills were considered by the same Select Committee which made certain modification in the Bill. The Bill as revised by the Committee was passed by the Assembly, but before it could be passed by the Council, the Legislature was dissolved.

The Bill now drawn up is on the lines of the Bill as revised by the Select Committee of the Second Assembly.

The Bill contains forty clauses and deals with marriage and its dissolution, maintenance and guardianship succession, (both intestate and testamentary) and adoption. Clause 40 of the Bill saves customary rights and usages to the extent indicated therein.

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